

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JAN 28 2005

APPLICANT: William George Wilhelm
SERIAL NO.: 08/820,496
FOR: HIGH EFFICIENCY LIGHTING SYSTEM
FILED: March 19, 1997
EXAMINER: Toatley, Gregory
GROUP ART UNIT: 2836

PETITION PURSUANT TO 37 C.F.R. 1.313(C)(2) TO WITHDRAW FROM ISSUE
AFTER PAYMENT OF THE ISSUE FEE
BASED UPON NEWLY CITED REFERENCES

This petition is made to permit the Applicant to file a Request for Continuation (RCE) in conjunction with a request to withdraw the application from issue, to disclose to the Patent Office the existence of newly discovered references cited in a related European patent application. The references include U.S. Patent No. 4,636,931 of Takahashi et al., U.S. Patent No. 5,059,871 of Pearlman et al., and German Patent No. DE4232516A of Back, et al. which were not known to Applicant. It also included the previously considered art of U.S. Patent No. 4,742,291 of Bobier et al.

The issue fee in the above case was paid on October 9, 2004. However, on October 12, 2004, Applicant received a European Search report in a related European Patent application. While Applicant submits that the references cited therein do not bar the issuance of a patent to Applicant, they may be material to the prosecution of the above entitled application.

Therefore, Applicant is submitting the enclosed PTO 1449 form to disclose to the Patent Office the existence of these references cited in the European search report, which first became known to Applicant when Applicant was sent the European search report on October 12, 2004.

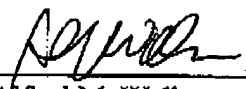
The reason that this Petition to File a Request For Continuation for submission of a PTO 1449 form is necessary at this time, is that Applicant was unaware of the existence of the cited patents until receipt of the letter from Applicant's European associate counsel, dated October 12, 2004. This date is after the Applicant's payment of the issue fee in the above entitled application on October 9, 2004. Therefore, it was impossible for Applicant to become aware of the cited references until it was brought to Applicant's attention by European counsel by letter dated October 12, 2004.

It is requested that the Issue Branch of the Patent Office suspend the issuance of the patent to Applicant herein, until such time as the Examiner in the above entitled case has had an opportunity to review the PTO 1449 form cited the newly discovered references, with respect to Applicant's application herein.

The requisite \$130.00 fee is enclosed, together with the Request for Examination fee of \$395.00.

Dated: January 28, 2005

Respectfully submitted,


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CERTIFICATE OF FAX TRANSMISSION

This is to certify that this correspondence is being deposited by facsimile to (703) 872-9306 on the date indicated below.

Date: January 28, 2005


Alfred M. Walker